

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Kenneth Carbone et al.	Art Unit :	2631
Serial No. :	09/582,297	Examiner :	Unknown
Filed :	June 3, 2002	Conf. No. :	1661
Title :	ASYNCHRONOUS DATA PROTOCOL		

Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 CFR § 1.181

On January 2, 2008, the Petitioners requested that the Office withdraw the holding of abandonment, due to the Petitioners' failure to receive the Office Action dated February 1, 2006. The USPTO issued a decision on February 19, 2008 ("the Decision") which dismissed the Petitioners' initial request and requested additional information from the Petitioners.

The Decision dismissed the request based on two grounds. First, the Decision explained that there was insufficient proof that the Petitioners were not receiving correspondence at the address listed on the non-final Office action. The Decision asked the Petitioners to "explain when the Petitioners' address changed, and explain whether the Petitioners were receiving mail at the address listed on the non-final Office action at the time the non-final Office action was mailed." Decision, page 2. Second, the Decision concluded that "the showing of record suggests that the Petitioners failed to provide the Office with a current correspondence address. As such, the failure to receive the Office Action is the fault of petitioner and not that of the Office." Decision, page 3.

The Petitioners respectfully submit additional documents demonstrating that (1) the Petitioners had moved in 2001 and thus were not receiving mail *for at least five years* at the address listed on the non-final Office action at the time the non-final Office action was mailed and (2) the Petitioners had asked the Office to change the correspondence address, but such change was not made in the instant application.

The change of address occurred in 2001. On April 1, 2001, the Petitioners moved from 601 Thirteenth Street, NW, Washington, DC 2005 to 1425 K Street, NW, 11<sup>th</sup> Floor, Washington, DC 20005-3500. Following the move, in June 2001, the Petitioners filed a change

of address in all pending applications, but it appears that the Office has no record of this change in the present application. In any event, the Petitioners were not receiving mail at the address listed on the non-final Office action since 2001.

In addition, on February 12, 2003, the Petitioners attempted to associate the present application, among others, with Customer Number 26171, which would also have changed the correspondence address for the present application (see Attachments A and B, which are the copies of the February 12 letter and Excel spreadsheet of the applications to be associated with Customer Number 26171, respectively).

On February 23, 2003, the Office's Electronic Business Center ("EBC") sent an error report with the instructions to indicate "yes" or "no" if the application were to be associated with the Customer Number. (see Attachment C). The report specifically advised that "once the Patent Electronic Business Center processes the final corrected list, **the correspondence and maintenance fee addresses for each application found on the corrected list will be associated with the correspondence address form your customer number.**" (emphasis added).

In response, the Petitioners affirmatively indicated to the EBC that the present application was to be associated with the Customer Number and, hence, with the new correspondence address. (see "yes" section including application No. 09582287 on page 2, line 7 of Appendix D). Nevertheless, the correspondence address was never updated by the EBC for the present application, which resulted in its eventual abandonment. The Petitioners thus respectfully submit that failure to receive the Office Action was not the fault of the Petitioners.

It is therefore respectfully submitted that, in view of the foregoing and including the previously-filed petition of January 2, 2008, the provisions of MPEP § 711.03(c) and the Notice in 1156 OG 53 (November 16, 1993) have been fulfilled, that this petition should be granted, and that the Office Action should be re-mailed to the current address of the Petitioners.

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Filed : June 3, 2002  
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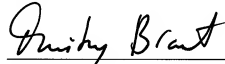
Attorney's Docket No.: 06975-029006 / Personlization 01-DIV3

No fee is believed to be due. However, please apply any charges or credits to Deposit  
Account No. 06-1050.

Respectfully submitted,

Date: \_\_\_\_\_

4/18/08



\_\_\_\_\_  
Dmitry Brant

Reg. No. 59,133

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (202) 783-2331

## **ATTACHMENT A**

# FISH & RICHARDSON P.C.

Frederick P. Fish  
1855-1930

W.K. Richardson  
1859-1951

225 Franklin Street  
Boston, Massachusetts  
02110-2804

Telephone  
617 542-5070

Facsimile  
617 542-8906

Web Site  
[www.fr.com](http://www.fr.com)

February 12, 2003

**Box EBC**

2231 Crystal Drive  
Suite 903  
Arlington, VA 22202



BOSTON

DALLAS

DELAWARE

NEW YORK

SAN DIEGO

SILICON VALLEY

TWIN CITIES

WASHINGTON, DC

To Whom It May Concern:

Enclosed is a disk containing an Excel Spreadsheet. Please update each application to reference Customer Number 26171.

Please address correspondence related to this request to:

Anne M. Micco  
Docket Administrator  
Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110

If you have any questions regarding these changes, please contact Anne M. Micco at (617) 521-7067.

Respectfully submitted,

Timothy A. French  
Reg. No. 30,175

DocNo 20574142

## **ATTACHMENT B**

Customer No. 26171

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500

Patent Number	Application Number	Patent Date mm/dd/yy	Filing Date mm/dd/yy	Respondent Address yes/no	Practitioner Record yes/no	Fee Address yes/no
6282489	08069161	8/28/2001	4/28/1993	yes	no	no
6389534	08940449	5/14/2002	9/30/1997	yes	no	no
6393469	09204745	5/21/2002	12/2/1998	yes	no	no
6397330	08940429	5/28/2002	9/30/1997	yes	no	no
6424941	09710877	7/23/2002	11/14/2000	yes	no	no
6453073	09283017	9/17/2002	3/31/1999	yes	no	no
6453687	09755194	9/24/2002	1/8/2001	yes	no	no
6487956	09686974	12/3/2002	10/12/2000	yes	no	no
6492062	09633067	12/10/2002	8/4/2000	yes	no	no
6496851	09366544	12/17/2002	8/4/1999	yes	no	no
6498982	09901082	12/24/2002	7/10/2001	yes	no	no
6522779	09749628	2/18/2003	12/28/2000	yes	no	no
6522780	09772879	2/18/2003	1/31/2001	yes	no	no
6522782	09772903	2/18/2003	1/31/2001	yes	no	no
	08661728		6/11/1996	yes	no	no
	08866857		5/30/1997	yes	no	no
	08638310		4/26/1996	yes	no	no
	09873272		6/5/2001	yes	no	no
	08803692		2/24/1997	yes	no	no
	09835378		4/17/2001	yes	no	no
	09968539		10/2/2001	yes	no	no
	09968540		10/2/2001	yes	no	no
	10345146		1/16/2003	yes	no	no
	08494803		6/26/1995	yes	no	no
	08314869		9/29/1994	yes	no	no
	10218607		8/15/2002	yes	no	no
	10253888		9/25/2002	yes	no	no
	10097418		3/15/2002	yes	no	no
	09582261		10/10/2000	yes	no	no
	09582262		10/10/2000	yes	no	no
	09582297		6/23/2000	yes	no	no
	10061206		2/4/2002	yes	no	no
	10061310		2/4/2002	yes	no	no
	10198963		7/22/2002	yes	no	no
	10301678		11/22/2002	yes	no	no
	09224211		12/30/1998	yes	no	no
	09225821		1/5/1999	yes	no	no

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09323415	6/1/1999	yes	no	no
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09399750	9/21/1999	yes	no	no
07951148	9/25/1992	yes	no	no
10260340	10/1/2002	yes	no	no
09501273	2/9/2000	yes	no	no
10301677	11/22/2002	yes	no	no
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07395597	8/18/1989	yes	no	no
07479448	2/13/1990	yes	no	no
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09543368	4/4/2000	yes	no	no
09851121	5/9/2001	yes	no	no
09693860	10/23/2000	yes	no	no
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09755202	1/8/2001	yes	no	no
09755203	1/8/2001	yes	no	no
09783534	2/15/2001	yes	no	no



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09867797	5/31/2001	yes	no	no
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10188371	7/3/2002	yes	no	no
10195544	7/16/2002	yes	no	no
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09431087	11/1/1999	yes	no	no
09500471	2/9/2000	yes	no	no
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10197574	7/18/2002	yes	no	no
09917675	7/31/2001	yes	no	no
10121581	4/15/2002	yes	no	no
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09964454	9/28/2001	yes	no	no
10230375	8/29/2002	yes	no	no
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10184002	6/28/2002	yes	no	no
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10241835	9/12/2002	yes	no	no
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60318673	9/13/2001	yes	no	no
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10244545	9/17/2002	yes	no	no
09972827	10/9/2001	yes	no	no
10112029	4/1/2002	yes	no	no
09988297	11/19/2001	yes	no	no
09988298	11/19/2001	yes	no	no
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09105840	6/26/1998	yes	no	no
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10214329	8/8/2002	yes	no	no
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10073122	2/12/2002	yes	no	no
60356124	2/14/2002	yes	no	no
10184071	6/28/2002	yes	no	no
10231196	8/30/2002	yes	no	no
10332611	1/10/2003	yes	no	no
10139632	5/7/2002	yes	no	no
10114318	4/3/2002	yes	no	no
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10307324	12/2/2002	yes	no	no
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10307403	12/2/2002	yes	no	no
10173307	6/18/2002	yes	no	no
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10259792	9/30/2002	yes	no	no
60368988	4/2/2002	yes	no	no
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60365197	3/19/2002	yes	no	no
10307417	12/2/2002	yes	no	no
10173306	6/18/2002	yes	no	no
10137663	5/3/2002	yes	no	no
10116751	4/5/2002	yes	no	no
10208205	7/31/2002	yes	no	no
10208203	7/31/2002	yes	no	no
10180462	6/27/2002	yes	no	no
10179018	6/26/2002	yes	no	no
10139631	5/7/2002	yes	no	no

10157025	5/30/2002	yes	no	no
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10115289	4/4/2002	yes	no	no
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60383139	5/28/2002	yes	no	no
60382089	5/22/2002	yes	no	no
60382075	5/22/2002	yes	no	no
60427567	11/20/2002	yes	no	no
60371431	4/11/2002	yes	no	no
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60387582	6/12/2002	yes	no	no
10123251	4/17/2002	yes	no	no
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10353977	1/30/2003	yes	no	no
10353978	1/30/2003	yes	no	no
60443562	1/30/2003	yes	no	no

## **ATTACHMENT C**



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FEB 25 2003

FISH & RICHARDSON, P.C.  
BOSTON OFFICE

<b>To:</b> Anne M. Micco	<b>From:</b> Tony Uranga
<b>Fax:</b> 617-542-8906	<b>Date:</b> 2/23/03
<b>Phone:</b> -	<b>Pages:</b> 5 Including Cover Letter
<b>Re:</b> CN Upload for CN 26171	<b>CC:</b>

We are in receipt of your spreadsheet to associate your applications/patents with your customer number. We have compared the correspondence addresses of the applications/patent numbers from the list with the existing correspondence addresses in the PALM database and have generated a list of mis-matched addresses (error report). Please see the attached spreadsheet.

Please review all applications and patents on the attached error report spreadsheet. Once you have verified whether or not you wish to associate all of these numbers with your customer number, please mark them as such on the attached spreadsheet (i.e., yes or no) and fax it back to me at (703) 308-2840. Please note that once the Patent Electronic Business Center processes the final corrected list, the correspondence and maintenance fee addresses for each application found on the corrected list will be associated with the correspondence address from your customer number. **Detailed review and verification of the application and patent numbers on the error report list is critical because any application or patent on the approved final corrected list that should not have been included will be disassociated from its proper correspondence address and assigned to you.**

Notice that if the correspondence address comparison performed by the PEBC turns up a large number of applications on the error report, you may be asked to provide a new spreadsheet more consistent with the results shown from the error report.

If there are NO changes to be made, you can just fax me back to let me know that it is ok to associate all files with your customer number.

If you have any questions, please feel free to contact me at 1-866-217-9197 (toll free) or 1-703-305-3028.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tony E. Uranga'.

Tony E. Uranga

## **ATTACHMENT D**

customer # 26171 upload error report

Patent Number	Application Number	Address	Name
10181467	10181467	100 College Road West, Suite 100, Princeton, NJ 08540, US	Arthur L. Plevy, Duane Morris
10151812	10151812	1450 Brooks Road, Memphis, TN 38116, US	JOEL R. PETROW, Smith & Nephew, Inc.
10171462	10171462	1450 Brooks Road, Memphis, TN 38116, US	JOEL R. PETROW, SMITH & NEPHEW, INC.
09986978	09986978	1450 Brooks Road, Memphis, TN 38116, US	JOEL R. PETROW, SMITH & NEPHEW, INC.
09780648	09780648	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
09833067	09833067	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
10218607	10218607	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
10269037	10269037	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
10277533	10277533	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
10277354	10277354	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
10178893	10178893	225 FRANKLIN ST, BOSTON, MA 02110, US	FISH & RICHARDSON PC
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09550532	09550532	225 Franklin Street, Boston, MA 02110-2804, US	Frank R. Occhuti, Fish & Richardson P.C.
10200582	10200582	225 Franklin Street, Boston, MA 02110-2804, US	JANIS K. FRASER, Fish & Richardson P.C.
10288329	10288329	225 FRANKLIN STREET, BOSTON, MA 02110-2804, US	JAMES W. BABINEAU, FISH & RICHARDSON P.C.
09571970	09571970	225 FRANKLIN STREET, BOSTON, MA 02110-2804, US	JAMES W. BABINEAU, FISH AND RICHARDSON P.C.
09535351	09535351	225 FRANKLIN STREET, BOSTON, MA 02110-2804, US	JAMES W. BABINEAU, FISH AND RICHARDSON P.C.
09710362	09710362	225 FRANKLIN STREET, BOSTON, MA 02110-2804, US	Robert C. Nabinger, Fish & Richardson P.C.
60426345	60426345	225 Franklin Street, Boston, MA 02110-2804, US	FRANK R. OCCHUTI, Fish & Richardson P.C.
10294742	10294742	225 Franklin Street, Boston, MA 02110-2804, US	FRANK R. OCCHUTI, Fish & Richardson P.C.

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10134685	3300 DAIN RASCHER PLAZA, 60 SOUTH SIXTH STREET, MINNEAPOLIS, MN 55402, US	FISH & RICHARDSON P.C.
10246377	4350 LA JOLLA VILLAGE DRIVE, SUITE 500, SAN DIEGO, CA 92122, US	FISH & RICHARDSON, PC
10246378	4350 LA JOLLA VILLAGE DRIVE, SUITE 500, SAN DIEGO, CA 92122, US	FISH & RICHARDSON, PC
10213365	4350 LA JOLLA VILLAGE DRIVE, SUITE 500, SAN DIEGO, CA 92122, US	FISH & RICHARDSON, PC
60385910	500 ARGUELLO STREET, SUITE 500, REDWOOD CITY, CA 94063, US	FISH & RICHARDSON P.C.
08940448	601 Thirteenth Street N W, Washington, DC 20005, US	JOHN F HAYDEN, FISH & RICHARDSON P C
09582237	601 Thirteenth Street N W, Washington, DC 20005, US	Fish & Richardson
09583176	601 Thirteenth Street N W, Washington, DC 20005, US	John F Hayden, Fish & Richardson P C
6282489	601 THIRTEENTH STREET N.W., WASHINGTON, DC 20005, US	FISH & RICHARDSON P.C.
6424641	601 THIRTEENTH STREET NW, WASHINGTON, DC 20005, US	W KARL RENNER, FISH & RICHARDSON PC
09501273	601 Thirteenth Street NW, Washington, DC 20005, US	John F Hayden, Fish & Richardson PC
09501212	601 Thirteenth Street NW, Washington, DC 20005, US	John F Hayden, Fish & Richardson PC
09927445	601 Thirteenth Street, N.W., Washington, DC 20005, US	JOHN F. HAYDEN, Fish & Richardson P.C.
09204745	601 THIRTEENTH STREET, N.W., WASHINGTON, DC 20005, US	FISH & RICHARDSON P.C.
08940429	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
6453687	601 Thirteenth Street, NW, Washington, DC 20005, US	ANDREW F. BODENDORF, Fish & Richardson P.C.
09765194	601 Thirteenth Street, NW, Washington, DC 20005, US	JOHN F. HAYDEN, Fish & Richardson P.C.
09760381	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60263165	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60286964	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60301453	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60301452	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60286963	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60330590	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60288431	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60294598	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60299454	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60311080	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
60300616	601 Thirteenth Street, NW, Washington, DC 20005, US	Fish & Richardson P.C.
6453073	873 Hacienda Way, Millbrae, CA 94030, US	John F. Hayden, Fish & Richardson P.C.
09283017		John Steinberg
09287025		
08041752	919 N. MARKET STREET, SUITE 110, WILMINGTON, DE 19801, US	FISH & RICHARDSON P.C.
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X 10352243	No Customer Address Found.	No Customer Name(s) Found.

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One Taber Center, 1200 17th Street Suite 1500, Denver, CO 80202.

US

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 P.O. BOX 1750, EDGEWATER, MD 21037-7750, US  
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